

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Diane Clayton and Rebecca Rutter

Application No. 10/561,713

Filed: December 21, 2005

Confirmation No. 1023

For: INFLAMMATORY DISEASE
TREATMENT

FILED VIA EFS ON
November 14, 2007

Examiner:

Art Unit: 1623

Attorney Reference No. 5585-72843-01

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, Virginia 22313-1450

RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)

This Renewed Petition is filed in response to the decision on applicant's previously submitted petition under 37 C.F.R. § 1.47(a) on November 7, 2006. The decision, dated May 14, 2007, dismissed applicant's previously submitted petition under 37 C.F.R. § 1.47(a) on the ground that petitioner did not present a complete copy of the application papers to the non-signing inventor for her signature.

The decision set a two-month period for response, and a 4-month extension fee is enclosed, making a response due by November 14, 2007.

Enclosed are the following:

- (a) factual proof that the non-signing joint inventor refuses to execute the application or cannot be reached after diligent effort, which is provided via a Declaration of Kate Taylor and the accompanying exhibits;
- (b) statement providing the last known address of the non-signing inventor (Rebecca Rutter (see second paragraph no. 8 of the enclosed Declaration); and

(c) a declaration by each available joint inventor on her own behalf and on behalf of the non-signing joint inventor.

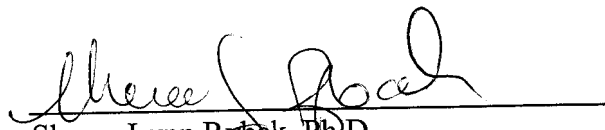
If there are any questions regarding this petition under 37 C.F.R. § 1.47(a), please telephone the undersigned.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
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By


Sheree Lynn Rybak, Ph.D.
Registration No. 47,913

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Diane Clayton and Rebecca
Rutter

Application No. 10/561,713

Filed: December 21, 2005

FILED VIA EFS

Confirmation No. 1023

For: INFLAMMATORY DISEASE
TREATMENT

Examiner: not yet assigned

Art Unit: 1623

Attorney Reference No. 5585-72843-01

SUBMITTED VIA ELECTRONIC FILING SYSTEM
UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION OF KATE TAYLOR UNDER 37 C.F.R. 1.47

1. I, Kate Taylor, am a patent attorney for the firm of patent and trademark attorneys Harrison Goddard Foote. Harrison Goddard Foote represents Advanced BioNutrition (Europe) Limited (the assignee of the present application).
2. Based on personal knowledge, I provide this Declaration to assert that named inventor Rebecca Rutter refuses to sign a Declaration for this application, after *bona fide* attempts requesting her to do so.
3. On 25 October 2007, I sent a letter to Mr. T. G. Thompson, non-signing inventor Rebecca Rutter's attorney. I enclosed with the letter a complete copy of the application (including the specification, claims, and drawings) as well as a Declaration for signature by Rebecca Rutter. I requested that the signed Declaration be returned by 7 November 2007. A copy of the letter is shown as attached Exhibit A.
4. Mr. T. G. Thompson confirmed receipt of the letter on 25 October 2007, as shown in Exhibit B.
5. On 7 November 2007, I received a telephone call directly from Rebecca Rutter, inquiring about the declaration. In particular Rebecca Rutter was inquiring whether by signing

the declaration she would be relinquishing any rights in the application. I informed Rebecca Rutter that questions of this nature should be directed to her attorney Trevor Thompson.

6. On 8 November 2007, I received a letter directly from Rebecca Rutter (see Exhibit C). Rebecca Rutter provides three reasons why she refuses to sign the declaration: (1) she is the sole inventor, (2) her address is incorrect, and (3) Advanced BioNutrition (Europe) Limited (referred to as ABN in the letter) has not offered her "fair and commercially reasonable terms" for the invention. Therefore, even if Rebecca Rutter's address on the Declaration provided to her for signature was correct, she still would not sign it, as my client ABN disputes the conclusion that Rebecca Rutter is the sole inventor, and thus will not remove Diane Clayton from the Declaration. In addition, Rebecca Rutter's conclusion that ABN has not offered Rebecca Rutter "fair and commercially reasonable terms" is not relevant to whether or not she is an inventor, but she continues to use this as a reason for refusing to sign the Declaration.

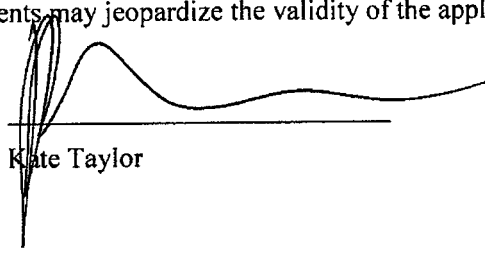
7. Rebecca Rutter further states in her 8 November 2007 letter (see Exhibit C) that she will not sign the Declaration unless two demands are met: (1) that ABN provide her with written assurances that signing the Declaration is not an assignment of her rights to ABN and that the invention was made prior to her employment at ABN and (2) that ABN provide her with a contract for the assignment of rights and commercialization of the product. While my client ABN is agreeable to confirm that signing a Declaration is not an assignment of rights and to provide her with an assignment, ABN disputes the conclusion that Rebecca Rutter invented the claimed subject matter prior to her employment with ABN. My client ABN is also unclear as to what Rebecca Rutter believes constitutes "fair and commercially reasonable terms". Therefore, ABN will not comply with Rebecca Rutter's demands.

8. In summary, although we have repeatedly requested that Rebecca Rutter sign a declaration for this application (also see facts stated in Rita Khanna's declaration submitted on November 7, 2006), she refuses to do so because there is dispute between the assignee of this application ABN and Rebecca Rutter as to the inventorship and ownership of this invention.

8. The last known address I have for Rebecca Rutter is 27 Cinque Ports way, Seaford, East Sussex, BN25 3UE, United Kingdom; and e-mail rebeccarutter@gmail.com, and e-mail rebeccarutter@gmail.com.

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these

statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Kate Taylor

14/11/07
Date



Harrison Goddard Foote
Patent and Trade Mark
Attorneys

Mr T G Thompson
Thompson Gray LLP
Sussex Innovation Centre
Science Park Square
Falmer
Brighton
BN1 9SB

25 October 2007

Your ref: A0182GB/TGT
Our ref: KLT/P102877US1

By Fax: 01273 704454
Sender: Kate Taylor
Pages: 42

**BY FACSIMILE AND
RECORDED DELIVERY**

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Dear Mr Thompson

**US Patent Application No 10/561,713
Inflammatory Disease Treatment
Advanced Bionutrition Limited**

My client, Advanced Bionutrition Limited, has been instructed by Ms Rebecca Rutter to direct all correspondence in connection with the above mentioned US Patent Application to you.

In this regard, I enclose a complete copy of the above mentioned patent application (including the specification, claims and drawings) together with a Declaration for signature by Ms Rutter.

I should be most grateful if Ms Rutter, as a named inventor in respect of this application, would review the attached patent application and then sign the attached Declaration as confirmation that she has read and understood the patent application. In the Declaration, each of the inventors swears that they are the co-inventor of the subject matter claimed in the patent application.

Please return the completed Declaration to me by **7 November 2007** in order that it may be filed at the USPTO. Please do not hesitate to contact me should you have any questions regarding this matter.

Partners:

David Goddard
Jonathan Couchman
Christopher Vaughan
Harry Hutchinson
Mark Lunt
Nigel Sanderson
Vanessa Stalworth

Jason Lumber

Tony Chalk
Jason Boakes
Mike Ajello
Rosemary Barker
David Potter
Geoffrey Smith

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Jonathan Atkinson
Gary Wilson

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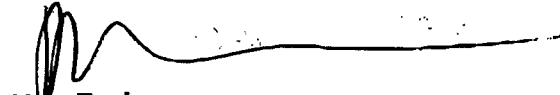
www.hgf.com

2
25 October 2007

If Ms. Rutter refuses to sign the declaration, please let me know immediately.

Please acknowledge receipt of this letter and its enclosures.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Kate Taylor', with a long horizontal flourish extending to the right.

**Kate Taylor
Senior Associate
For and on behalf of Harrison Goddard Foote**

Enc. US patent application No.: 10/561,713 (including the specification, claims and drawings)
Declaration

P102877US1 Thompson CB 251007



Harrison Goddard Foote
Patent and Trade Mark
Attorneys

THOMPSON GRAY LLP

25 OCT 2007

RECEIVED WITH THANKS

Mr T G Thompson
Thompson Gray LLP
Sussex Innovation Centre
Science Park Square
Falmer
Brighton
BN1 9SB

25 October 2007

Your ref: A0182GB/TGT
Our ref: KLT/P102877US1

By Fax: 01273 704464
Sender: Kate Taylor
Pages: 42

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Partners:
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York
YO1 6JX

Reference: KLT/P102877US1

08 November 2007

Dear Kate,

Further to our conversation yesterday and my subsequent review of the documents sent in your fax of the 25 October 2007.

I will not sign this document for the following reasons:

1. It is factually incorrect – I am the sole inventor of this work (reference ABN internal document PD31). This document clearly states that I am a co-inventor and that Diane Clayton is the FIRST inventor.
2. The mailing address listed for me is incorrect - I have provided my address to ABN before (given again below for clarity)
3. As previously stated, I am not adverse to ensuring this patent can be exploited, however until such time as ABN offer me a fair and commercially reasonable terms for my invention I am not prepared to sign any documents. This document allows them to benefit by continuing to prosecute the patent in the US market, and therefore provided added value to the company.

I appreciate there is an imminent deadline to meet for this. As soon as ABN either:

1. Provide me with written assurances that signing this declaration does not and will not construe assignment of any rights by me to them as this was invented prior to any contract of employment between myself and ABN or ABNE

AND

2. Provides me with an acceptable contract for the assignment of rights and commercialisation of the product based on the patent

I would be more than happy to provide a signature.

I hope this is clear. Please ensure any and all correspondence is address personally to me, you can either post to my address below or email to rebeccarutter@gmail.com

Many thanks



Rebecca Rutter
27 Cinque Ports way
Seaford
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BN25 3UE